

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

RICKIE L. HILL,

Plaintiff,

v.

C. ROWLEY et al.,

Defendants.

3:15-cv-00038-RCJ-VPC

**ORDER**

**I. DISCUSSION**

On June 24, 2015, this Court issued a screening order dismissing the complaint in its entirety. (ECF No. 4 at 1, 8). On July 20, 2015, Plaintiff appealed. (ECF No. 7).

On August 26, 2016, the Ninth Circuit Court of Appeals issued a memorandum disposition which affirmed in part, reversed in part, and remanded. (ECF No. 13 at 3). The Ninth Circuit held:

In sum, we affirm the dismissal of [Plaintiff's] failure-to-protect and equal protection claims based on Rowley's comments to [Plaintiff], reverse the dismissal of [Plaintiff's] sexual harassment and equal protection claims based on Rowley's touching of [Plaintiff], reverse the denial of leave to amend [Plaintiff's] failure-to-protect and equal protection claims against Spiers, and remand for further proceedings.

(*Id.*).

In light of the Ninth Circuit's memorandum disposition, Plaintiff is granted leave to file an amended complaint to cure the deficiencies of the complaint. If Plaintiff chooses to file an amended complaint he is advised that an amended complaint supersedes (replaces) the original complaint and, thus, the amended complaint must be complete in itself. See *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that "[t]he fact that a party was named in the original complaint is irrelevant; an amended

pleading supersedes the original”); see also *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding that for claims dismissed with prejudice, a plaintiff is not required to reallege such claims in a subsequent amended complaint to preserve them for appeal). Plaintiff’s amended complaint must contain all claims, defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit. Moreover, Plaintiff must file the amended complaint on this Court’s approved prisoner civil rights form and it must be entitled “First Amended Complaint.”

The Court notes that if Plaintiff chooses to file an amended complaint curing the deficiencies as outlined in the Ninth Circuit’s memorandum disposition, Plaintiff shall file the amended complaint within 30 days from the date of entry of this order. If Plaintiff chooses not to file an amended complaint curing the stated deficiencies, this action shall only proceed on the sexual harassment and equal protection claims against Rowley for unwanted touching of Plaintiff’s person. (See ECF No. 13 at 2).

## II. CONCLUSION

For the foregoing reasons, IT IS ORDERED that if Plaintiff chooses to file an amended complaint curing the deficiencies of his complaint, as outlined in the Ninth Circuit’s memorandum disposition, Plaintiff shall file the amended complaint **within 30 days** from the date of entry of this order.

IT IS FURTHER ORDERED that the Clerk of the Court shall send to Plaintiff the approved form for filing a § 1983 complaint, instructions for the same, a copy of his original complaint (ECF No. 5), and a copy of the Ninth Circuit’s memorandum disposition (ECF No. 13). If Plaintiff chooses to file an amended complaint, he must use the approved form and he shall write the words “First Amended” above the words “Civil Rights Complaint” in the caption.

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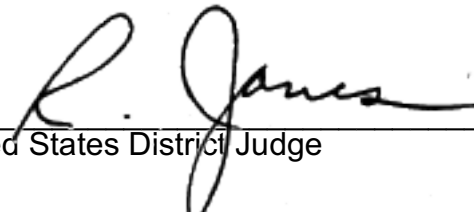
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1 IT IS FURTHER ORDERED that if Plaintiff chooses not to file an amended complaint  
2 curing the stated deficiencies of the complaint, this action shall only proceed on the sexual  
3 harassment and equal protection claims against Rowley for unwanted touching of Plaintiff's  
4 person.

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6 DATED: This 18<sup>th</sup> day of October, 2016.

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9 United States District Judge  
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